

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
)	Violation: Title 18,
v.)	United States Code,
)	Sections 1341, 1951
GREGORY GARIBAY)	
)	<u>INDICTMENT</u>

COUNT ONE

The SPECIAL SEPTEMBER 2012 GRAND JURY charges:

1. At times material to this indictment:
 - a. Insurance Company A and Insurance Company B provided insurance coverage for automobiles in the State of Illinois.
 - b. Full coverage insurance policies issued by Insurance Company A included coverage for damage to an insured vehicle caused during accidents, for expenses incurred in towing an insured vehicle from an accident scene, and for storage of the insured vehicle at a towing company storage lot.
 - c. If a vehicle insured by Insurance Company A was at fault in an accident with another vehicle or vehicles, full coverage insurance policies issued by Insurance Company A would provide coverage for damage to, and expenses incurred by, the other vehicles.
 - d. Companies that operate tow trucks to tow automobiles from accident scenes are typically paid for their services by the insurance company that insured the vehicle

determined to be at fault in the accident.

e. Defendant GREGORY GARIBAY was an officer in the Chicago Police Department assigned to the 4th police district.

f. Individual A was a tow truck driver and owner of Towing Company A, a towing business operating in the Chicago area. Unbeknownst to the defendant, at certain times relevant to this indictment, Individual A was cooperating with law enforcement.

2. Beginning no later than on or about January 16, 2008 and continuing to at least on or about January 28, 2008, in the Northern District of Illinois, Eastern Division, and elsewhere,

GREGORY GARIBAY,

defendant herein, knowingly devised and intended to devise and participated in a scheme to defraud Insurance Company A and to obtain money and property by means of materially false and fraudulent pretenses, promises, and representations, and by concealment of material facts, all of which is more fully described below.

3. It was part of the scheme that defendant GARIBAY filed a false police report incorrectly indicating that a vehicle insured by Insurance Company A was at fault in an accident so that Insurance Company A would pay for part or all of the damage caused by the accident, including covering the towing fees that would be paid to Individual A, who later paid GARIBAY a cash bribe for enabling Individual A to obtain the tow of the vehicle.

4. It was further part of the scheme that, on or about January 16, 2008, after defendant GARIBAY arrived on the scene of a traffic accident involving a Toyota Avalon,

a Toyota Camry, and a Dodge Caravan, he stated his understanding that the Camry had only liability insurance coverage, while the Avalon had full insurance coverage.

5. It was further part of the scheme that defendant GARIBAY, while acknowledging that the Camry was at fault in the accident, stated that, in the accident report, he was not going to list the Camry as the vehicle at fault.

6. It was further part of the scheme that, in the accident report, defendant GARIBAY falsely identified the Avalon as the “Unit 1” vehicle at fault in the accident.

7. It was further part of the scheme that defendant GARIBAY filed the accident report with the Chicago Police Department.

8. It was further part of the scheme that the defendant misrepresented, concealed, and hid, and caused to be misrepresented, concealed, and hidden, the existence of the scheme, the purposes of the scheme, and acts done in furtherance of the scheme.

9. On or about January 16, 2008, in the Northern District of Illinois, Eastern Division, and elsewhere,

GREGORY GARIBAY,

defendant herein, for the purpose of executing the above-described scheme, did knowingly cause an envelope to be sent through the U.S. mail to the driver of the Toyota Avalon, in Chicago, Illinois, according to the directions thereon, which envelope contained a letter concerning the claim for loss resulting from the accident between the Toyota Avalon, the Toyota Camry, and the Dodge Caravan, on January 16, 2008;

In violation of Title 18, United States Code, Section 1341.

COUNT TWO

The SPECIAL SEPTEMBER 2012 GRAND JURY further charges:

1. The allegations in paragraphs 1 through 8 of Count One of this indictment are hereby re-alleged and incorporated as if fully set forth herein.

2. On or about January 16, 2008, in the Northern District of Illinois, Eastern Division, and elsewhere,

GREGORY GARIBAY,

defendant herein, for the purpose of executing the above-described scheme, did knowingly cause an envelope to be sent through the U.S. mail to the driver of the Toyota Camry, in Chicago, Illinois, according to the directions thereon, which envelope contained a letter concerning the claim for loss resulting from the accident between the Toyota Avalon, the Toyota Camry, and the Dodge Caravan, on January 16, 2008;

In violation of Title 18, United States Code, Section 1341.

COUNT THREE

The SPECIAL SEPTEMBER 2012 GRAND JURY further charges:

1. The allegations in paragraphs 1 through 8 of Count One of this indictment are hereby re-alleged and incorporated as if fully set forth herein.

2. On or about January 16, 2008, in the Northern District of Illinois, Eastern Division, and elsewhere,

GREGORY GARIBAY,

defendant herein, for the purpose of executing the above-described scheme, did knowingly cause an envelope to be sent through the U.S. mail to the driver of a Dodge Caravan involved in the accident, in Chicago, Illinois, according to the directions thereon, which envelope contained a letter concerning the claim for loss resulting from the accident between the Toyota Avalon, the Toyota Camry, and the Dodge Caravan, on January 16, 2008;

In violation of Title 18, United States Code, Section 1341.

COUNT FOUR

The SPECIAL SEPTEMBER 2012 GRAND JURY further charges:

1. At times material to this indictment:
 - a. Defendant GREGORY GARIBAY was an officer in the Chicago Police Department assigned to the 4th police district.
 - b. The Chicago Police Department required its officers to follow the Department's Rules and Regulations and General Orders.
 - c. Chicago Police Department Rule 4 prohibited officers from any conduct or action taken to use their official position for personal gain or influence.
 - d. Chicago Police Department Rule 45 prohibited officers from recommending any professional or commercial service.
 - e. Chicago Police Department Rule 46 prohibited officers from advising any person engaged in a professional or commercial service that such professional or commercial service may be needed.
 - f. Chicago Police Department Rule 48 prohibited officers from soliciting or accepting any gratuity, or soliciting or accepting a gift, present, reward, or other thing of value for any service rendered as a Department member, or as a condition for the rendering of such service, or as a condition for not performing sworn duties.
 - g. Chicago Police Department General Order 98-08-01D stated that tows are provided by the Department of Streets and Sanitation or by Towing Company B, seven days a week, twenty-four hours a day.

h. Chicago Police Department General Order 98-08-01D required that officers notify the Chicago Police Department Office of Emergency Management and Communication to request a tow for any vehicle that should be towed.

i. Individual A was a tow truck driver and owner of Towing Company A, a towing business operating in the Chicago area. Unbeknownst to the defendant, at certain times relevant to this indictment, Individual A was cooperating with law enforcement.

2. Beginning on or about January 16, 2008, and continuing through on or about January 28, 2008, at Chicago, in the Northern District of Illinois, Eastern Division,

GREGORY GARIBAY,

defendant herein, did attempt to commit extortion, which extortion would have obstructed, delayed, and affected commerce, in that he attempted to obtain and obtained property, namely \$200 in United States currency, from Individual A, with that person's consent induced under color of official right;

In violation of Title 18 United States Code, Section 1951.

COUNT FIVE

The SPECIAL SEPTEMBER 2012 GRAND JURY further charges:

1. At times material to this indictment:
 - a. Insurance Company C provided insurance coverage for automobiles in the State of Illinois.
 - b. Full coverage insurance policies issued by Insurance Company C included coverage for damage to an insured vehicle caused during accidents, for expenses incurred in towing an insured vehicle from an accident scene, and for storage of the insured vehicle at a towing company storage lot.
 - c. If a vehicle insured by Insurance Company C was at fault in an accident with another vehicle or vehicles, full coverage insurance policies issued by Insurance Company C provided coverage for damage to, and expenses incurred by, the other vehicles.
 - d. Companies which operate tow trucks to tow automobiles from accident scenes are typically paid for their services by the insurance company which insured the vehicle determined to be at fault in the accident.
 - e. Defendant GARIBAY was an officer in the Chicago Police Department assigned to the 4th police district.
 - f. Individual A was a tow truck driver and owner of Towing Company A, a towing business operating in the Chicago area. Unbeknownst to the defendant, at certain times relevant to this indictment, Individual A was cooperating with law enforcement.
2. Beginning no later than on or about December 9, 2007, and continuing to at

least on or about January 25, 2008, in the Northern District of Illinois, Eastern Division, and elsewhere,

GREGORY GARIBAY,

defendant herein, and others, knowingly devised and intended to devise and participated in a scheme to defraud Insurance Company C and to obtain money and property by means of materially false and fraudulent pretenses, promises, and representations, and by concealment of material facts, all of which is more fully described below.

3. It was part of the scheme that on December 15, 2007, defendant GARIBAY, Individual A and Individual B staged an accident in order to induce Insurance Company C to pay for damages purportedly resulting to Individual A's vehicle and Individual B's vehicle, which payments would be used to pay towing fees owed to Individual A's towing company. It was further part of the scheme that GARIBAY would receive a portion of the funds provided by Insurance Company C to pay for the claim.

4. It was further part of the scheme that, on December 15, 2007, Individual B's vehicle, a Chevrolet Malibu, was transported to the scene of a purported accident on the back of a tow truck operated by Individual C.

5. It was further part of the scheme that defendant GARIBAY directed Chicago Police Officer A to the scene of the purported accident.

6. It was further part of the scheme that the Chevrolet Malibu and the tow truck operated by Individual C were positioned on the street to make it appear as though the Malibu had struck the tow truck from behind. In fact, no collision occurred between these

vehicles on December 15, 2007.

7. It was further part of the scheme that Individual B made an insurance claim to Insurance Company C.

8. It was further part of the scheme that, on January 25, 2008, defendant GARIBAY accepted a \$2,000 cash payment from Individual A in return for GARIBAY's participation in the scheme.

9. It was further part of the scheme that the defendant misrepresented, concealed, and hid, and caused to be misrepresented, concealed, and hidden, the existence of the scheme, the purposes of the scheme, and acts done in furtherance of the scheme.

10. On or about December 21, 2007, in the Northern District of Illinois, Eastern Division, and elsewhere,

GREGORY GARIBAY,

defendant herein, for the purpose of executing the above-described scheme, did knowingly cause an envelope to be sent through the U.S. mail to Individual B, in Chicago, Illinois, according to the directions thereon, which envelope contained a letter regarding the handling of Individual B's claim related to the purported accident involving the Chevrolet Malibu on December 15, 2007;

In violation of Title 18, United States Code, Section 1341.

COUNT SIX

The SPECIAL SEPTEMBER 2012 GRAND JURY further charges:

1. The allegations in paragraphs 1 through 9 of Count Five of this indictment are hereby re-alleged and incorporated as if fully set forth herein.

2. On or about December 21, 2007, in the Northern District of Illinois, Eastern Division, and elsewhere,

GREGORY GARIBAY,

defendant herein, for the purpose of executing the above-described scheme, did knowingly cause an envelope to be sent through the U.S. mail to Individual B, in Chicago, Illinois, according to the directions thereon, which envelope contained a letter regarding the storage charges accumulating on Individual B's vehicle as a result of the purported accident involving the Chevrolet Malibu on December 15, 2007;

In violation of Title 18, United States Code, Section 1341.

COUNT SEVEN

The SPECIAL SEPTEMBER 2012 GRAND JURY further charges:

1. The allegations in paragraphs 1 through 9 of Count Five of this indictment are hereby re-alleged and incorporated as if fully set forth herein.

2. On or about January 3, 2008, in the Northern District of Illinois, Eastern Division, and elsewhere,

GREGORY GARIBAY,

defendant herein, for the purpose of executing the above-described scheme, did knowingly cause an envelope to be sent through the U.S. mail to Insurance Company C, in Naperville, Illinois, according to the directions thereon, which envelope contained a letter regarding a notice of hospital lien directed to Insurance Company C, as a result of the purported accident involving the Chevrolet Malibu on December 15, 2007;

In violation of Title 18, United States Code, Section 1341.

COUNT EIGHT

The SPECIAL SEPTEMBER 2012 GRAND JURY further charges:

1. The allegations in paragraphs 1 through 9 of Count Five of this indictment are hereby re-alleged and incorporated as if fully set forth herein.

2. On or about January 18, 2008, in the Northern District of Illinois, Eastern Division, and elsewhere,

GREGORY GARIBAY,

defendant herein, for the purpose of executing the above-described scheme, did knowingly cause an envelope to be sent through the U.S. mail to Individual B, in Chicago, Illinois, according to the directions thereon, which envelope contained a letter regarding Individual B's duty to cooperate in the handling of Individual B's claim as a result of the purported accident involving the Chevrolet Malibu on December 15, 2007;

In violation of Title 18, United States Code, Section 1341.

COUNT NINE

The SPECIAL SEPTEMBER 2012 GRAND JURY further charges:

1. At times material to this indictment:
 - a. Defendant GREGORY GARIBAY was an officer in the Chicago Police Department assigned to the 4th police district.
 - b. The Chicago Police Department required its officers to follow the Department's Rules and Regulations and General Orders.
 - c. Chicago Police Department Rule 4 prohibited officers from any conduct or action taken to use their official position for personal gain or influence.
 - d. Chicago Police Department Rule 45 prohibited officers from recommending any professional or commercial service.
 - e. Chicago Police Department Rule 46 prohibited officers from advising any person engaged in a professional or commercial service that such professional or commercial service may be needed.
 - f. Chicago Police Department Rule 48 prohibited officers from soliciting or accepting any gratuity, or soliciting or accepting a gift, present, reward, or other thing of value for any service rendered as a Department member, or as a condition for the rendering of such service, or as a condition for not performing sworn duties.
 - g. Chicago Police Department General Order 98-08-01D stated that tows are provided by the Department of Streets and Sanitation or by Towing Company B, seven days a week, twenty-four hours a day.

h. Chicago Police Department General Order 98-08-01D required that officers notify the Chicago Police Department Office of Emergency Management and Communication to request a tow for any vehicle that should be towed.

i. Individual A was a tow truck driver and owner of Towing Company A, a towing business operating in the Chicago area. Unbeknownst to the defendant, at certain times relevant to this indictment, Individual A was cooperating with law enforcement.

2. Beginning on or about December 15, 2007, and continuing through on or about January 25, 2008, at Chicago, in the Northern District of Illinois, Eastern Division,

GREGORY GARIBAY,

defendant herein, did attempt to commit extortion, which extortion would have obstructed, delayed, and affected commerce, in that he attempted to obtain and obtained property, namely \$2,000 in United States currency, from Individual A, with that person's consent induced under color of official right;

In violation of Title 18 United States Code, Section 1951.

FORFEITURE ALLEGATION

The SPECIAL SEPTEMBER 2012 GRAND JURY further alleges:

1. The allegations contained in Counts Four and Nine of this indictment are realleged and incorporated herein by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c).

2. As a result of his violation of Title 18, United States Code, Section 1951, as alleged in the foregoing indictment,

GREGORY GARIBAY,

defendant herein, shall forfeit to the United States, pursuant to Title 18, United States Code, Section, 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any and all right, title and interest in property, real and personal, which constitutes and is derived from proceeds traceable to the charged offense.

3. The interest(s) of the defendant(s) subject to forfeiture pursuant to Title 18, United States Code, Section, 981(a)(1)(C), and Title 28, United States Code, Section 2461(c) include but are not limited to \$2,200.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28,
United States Code, Section 2461(c).

A TRUE BILL:

FOREPERSON

ACTING UNITED STATES ATTORNEY